

### REMARKS

This responds to the Office Action dated November 10, 2005. Claims 36, 45, 63, and 67, are amended. No claims are canceled or added. As a result, claims 36-72 remain pending in this patent application.

#### Double Patenting Rejection

Claims 36-38, and 45-46 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-59 of U.S. Patent No. 6,584,363.

Applicant is submitting herewith a terminal disclaimer to obviate the double patenting rejection. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

Claims 36-38, and 45-46 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 of U.S. Patent No. 6,304,786.

Applicant is submitting herewith a terminal disclaimer to obviate the double patenting rejection. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

#### §102 Rejection of the Claims

Claims 36-40, 42, 43, 45-48, 50, 51, and 63-72 were rejected under 35 U.S.C. § 102(e) as being anticipated by Pohndorf et al. (U.S. Patent No. 5,776,178). As an initial note, Applicant reserves the right to swear behind this reference as provided under 37 C.F.R. § 1.131. Nonetheless, Applicant respectfully traverses, as described below.

Applicant cannot find in the cited portions of Pohndorf et al. any disclosure of a substantially cylindrical peripheral surface and an at least partially dissolvable coating at least partially on a portion of the peripheral surface of the device body, the coating providing at least one of a rough surface and a porous surface after being exposed to the aqueous substance, as presently recited in independent claim 36, 45, and 63. Instead, the cited portions of Pohndorf et al. apparently merely pertain to a non-cylindrical distal helical corkscrew tip (see Pohndorf et al. FIG. 3) having a coated porous portion. Accordingly, because Pohndorf et al. apparently fails to

disclose all elements presently recited in these claims, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

§103 Rejection of the Claims

Claims 41 and 49 were rejected under 35 U.S.C. § 103(a) for obviousness over Pohndorf et al. (U.S. Patent No. 5,776,178) in view of Janke et al. (U.S. Patent No. 6,240,321). Applicant respectfully traverses, as discussed below.

For the reasons discussed above with respect to the § 102 rejection, Applicant respectfully submits that no *prima facie* case of obviousness presently exists with respect to claims 41 and 49 because all elements of such claims are not disclosed, taught or suggested in the cited portions of either Pohndorf et al. or Janke et al. More particularly, Applicant cannot find in Pohndorf et al. or Janke et al. any disclosure, teaching, or suggestion of a substantially cylindrical peripheral surface and an at least partially dissolvable coating at least partially on a portion of the peripheral surface of the device body, the coating providing at least one of a rough surface and a porous surface after being exposed to the aqueous substance, as presently incorporated in claims 41 and 49 by their dependence on independent claim 36 and 45, respectively.

Allowable Subject Matter

Applicant gratefully acknowledges the allowance of claims 53-62.

Claims 44 and 52 were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Nonetheless, for the reasons discussed above, Applicant respectfully submits that these claims are allowable in their present form. Accordingly, Applicant respectfully requests allowance of claims 44 and 52.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

RONALD W. HEIL, JR. ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 373-6951

Date Dec. 16, 2005

By   
Suneel Arora  
Reg. No. 42,267

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16 day of December, 2005.

Name

Signature